

STATE OF INDIANA )  
 ) SS:  
COUNTY OF JOHNSON )

IN THE JOHNSON CIRCUIT COURT

CAUSE NO. \_\_\_\_\_

STATE OF INDIANA, )

Plaintiff, )

v. )

BRYAN STAMM, )

Defendant. )

41D030307 PL00032

FILED

JUL 23 2003

CLERK, JOHNSON SUPERIOR CT. NO. 3

**COMPLAINT FOR INJUNCTION,  
RESTITUTION, COSTS, AND CIVIL PENALTIES**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Terry Tolliver, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code §24-5-0.5-1 *et seq.*, for injunctive relief, consumer restitution, civil penalties, costs, and other relief.

**PARTIES**

1. The Plaintiff, State of Indiana is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code §24-5-0.5-4(c).
2. The Defendant, Bryan Stamm ("Stamm"), at all times relevant to this complaint, was a resident of and conducted business in Johnson County, Indiana.

**FACTS**

3. At least since March 2, 2003, Defendant has offered items for sale via Internet auctions.

**A. Allegations regarding Velde Armands**

4. On or about March 2, 2003, the Defendant entered into a contract via eBay, an Internet auction website, with Velde Armands ("Armands") of Brooklyn, New York, wherein the Defendant represented that he would sell a Pioneer PDP-503CMX 50 inch television for Three Thousand Seven Hundred and Thirty Dollars (\$3,730.00), which Armands paid through PayPal, an internet-based payment service.

5. At the time the contract was entered, the Defendant represented that the television would be shipped to Armands within 7-10 days after payment was received.

6. The Defendant received payment via PayPal and withdrew the funds on or about March 4, 2003.

7. The Defendant has yet to either deliver the Pioneer PDP-503CMX 50 inch television, or issue a full refund to Armands.

8. After several failed attempts to contact the Defendant, Armands requested a chargeback through his credit card company and was issued a partial refund of Two Thousand Five Hundred Dollars (\$2,500.00).

**B. Allegations regarding Arthur L. Stephens**

9. On or about March 3, 2003, the Defendant entered into a contract via eBay, an Internet auction website, with Arthur L. Stephens ("Stephens") of Irving, Texas, wherein the Defendant represented that he would sell a Sony PFM 50c1 Plasma television for Six Thousand Three Hundred and Fifty Dollars (\$6,350.00), which Stephens paid through PayPal, an internet-based money transfer service.

10. At contract formation, the Defendant represented that the item would be shipped to Stephens within 7-10 days after payment was received.

11. The Defendant received payment via PayPal and withdrew the funds on or about March 17, 2003.

12. On or about March 19, 2003, the Defendant E-mailed Stephens and stated that he did "not expect it to take much longer" and that the television would be shipped within a reasonable period of time.

13. The Defendant has yet to deliver either the Sony PRM 50c1 Plasma television, or a refund to Stephens.

**COUNT I-VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT**

14. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 13 above.

15. The transactions referred to in paragraphs 4 and 9, are "consumer transactions" as defined by Ind. Code §24-5-0.5-2(a)(1).

16. The Defendant is a "supplier" as defined by Ind. Code §24-5-0.5-2(a)(3).

17. The Defendant's representations to consumers, Armands and Stephens, regarding the characteristics or benefits of the subjects of the consumer transactions, when the Defendant knew or reasonably should have known that they did possess such, as referenced in paragraphs 4 and 9, are violations of the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-3(a)(1).

18. The Defendant's representations to Armands and Stephens that he would deliver the televisions, or otherwise complete the subject matter of the consumer transaction, within a stated or reasonable period of time, when the Defendant knew or reasonably should have known that he could not deliver the items as represented, as referenced in paragraphs 5, 10, and 12, are violations of the Indiana Deceptive Consumer Sales Act, Ind. Code §24-5-0.5-3(a)(10).



**COUNT II- KNOWING AND INTENTIONAL VIOLATIONS**  
**OF THE DECEPTIVE CONSUMER SALES ACT**

19. Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1-18 above.

20. The misrepresentations and deceptive acts set forth in paragraphs 4, 5, 9, 10, and 12 were committed by the Defendant with knowledge and intent to deceive.

**RELIEF**

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendant, Bryan Stamm, for a permanent injunction pursuant to Ind. Code §24-5-0.5-4(c)(1), enjoining the Defendant from the following:

- a. representing expressly or by implication that the subject of a consumer transaction has sponsorship, approval, performance, characteristics, accessories, uses, or benefits it does not have which the Defendant knows or should reasonably know it does not have;
- b. representing expressly or by implication that the Defendant is able to deliver or complete the subject of a consumer transaction within a stated or reasonable period of time, when the Defendant knows or reasonably should know that he cannot;

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendant, Bryan Stamm, for the following relief:

- a. cancellation of the Defendant's unlawful contracts with consumers, including but not limited to the persons identified in paragraphs 4 and 9, pursuant to Ind. Code §24-5-0.5-4(d);
- b. consumer restitution pursuant to Ind. Code §24-5-0.5-4(c)(2), for reimbursement of all unlawfully obtained funds remitted by consumers for the purchase of the Defendant's items via the Internet, including but not limited to, the persons identified in paragraphs 4 and 9, in an amount to be determined at trial;

c. costs pursuant to Ind. Code §24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;

d. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code §24-5-0.5-4(g) for the Defendant's knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana;


e. on Count II of the Plaintiff's complaint, civil penalties pursuant to Ind. Code §24-5-0.5-8 for the Defendant's intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and

f. all other just and proper relief.

Respectfully submitted,

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